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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,370	02/01/2001	Tammy Zheng	VLSI.225DIV1	8675

7590 02/27/2002

Attention Robert J. Crawford  
CRAWFORD PLLC  
Suite 390  
1270 Northland Drive  
St. Paul, MN 55120

EXAMINER

ANDUJAR, LEONARDO

ART UNIT

PAPER NUMBER

2826

DATE MAILED: 02/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.		Applicant(s)	
	09/775,370		ZHENG ET AL.	
	Examiner		Art Unit	
	Leonardo Andújar		2826	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 27-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I, claims 27-37 in Paper No. 5 is acknowledged.

### ***Acknowledgment***

2. The Amendment B filed on 01/23/2002, paper no. 4, in response to the Office action mailed on 11/30/2001 has been entered. The present Office action is made with all the suggested amendments being fully considered. Accordingly, pending in this Office action are claims 27-37.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a plug having a first and second upper surface connecting a first and second metal portions must be shown or the feature(s) canceled from the claim(s). Also, a dielectric layer having a first and second upper surfaces must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 28-32 and 34 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

8. In the instant case, the specification fails to disclose a description concerning:

- An interface that is formed when a first portion of a plug is planarized before forming a remaining portion.
- An interface that is formed when a first portion of a plug is subjected to CMP before forming a remaining portion.
- An interface that is formed when a first portion of the plug is etched before forming a remaining plug portion.
- Grain boundaries that are formed at the internal interface between two plug portions formed by separated process.
- Properties of an aluminum plug formed using a continuous deposition process.

- Characteristic of the upper surface of a dielectric layer that was planarized by CMP.

9. Claims 28-30, 34 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 28-30 and 34, it is not clear which are the structural limitations or the specific characteristics that does not exhibit the claimed plug or the dielectric layer under specific conditions e.g. CMP.

10. Claims 28-30 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the elements that form the interface (an interface by definition is a surface forming a common boundary between adjacent regions, bodies, substances, or phases).

11. Claim 36 recites the limitation "the portion of the dielectric layer" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claims 27-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korman (US 5,959,357) in view of Green et al. (US 4,851,895).

15. Regarding claim 27, Korman (see attachment) shows a semiconductor device comprising:

- A first metal portion 16 over a substrate;
- A dielectric layer 44 above the first metal portion;
- A second metal 42a portion above the dielectric layer;
- A single layer plug 42b extending from the first metal portion through the dielectric layer to the second portion.

16. Moreover, the plug has a first upper surface 42c extending laterally beyond the second metal portion and substantially planar to an upper surface of the dielectric layer and a second upper surface 42d that extends above the first upper surface (see attachment). The single layer plug is made of copper (col. 5/ll. 23). However, Korman does not disclose that an aluminum alloy can be used to make the single layer plug. Green discloses the interchangeability between aluminum alloy and copper as metalization materials. Moreover, Green discloses that the metalization materials

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suitability depend on the material properties such as, e.g. electrical conductivity, electrical contact resistance stability of such electrical properties over time, physical integrity and adhesion, and the availability of a suitable etchant in photolithographic processing (col. 1/lls. 21-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make Korman's single layer plug of aluminum alloy because copper and aluminum alloy are interchangeable as taught by Green.

17. In regards to claims 28-32 (as understood), Korman shows that the single layer plug comprises a first and second portion. Korman shows that the single layer plug is a single piece. Therefore, Korman's device does not exhibit any type of interface. Moreover, a "product by process" claim is directed to the product per se, no matter how actually made. See In re Thorpe et al., 227 USPQ 964 (CAFC, 1985) and the related case law cited therein which make it clear that it is the final product *per se* which must be determined in a "product by process" claim, and not the patentability of the process, and that, as here, an old or obvious product produced by a new method is not patentable as a product, whether claimed in "product by process" claims or not. As stated in Thorpe, even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. *In re Brown*, 459 F.2d 531, 535, 173 USPQ 685, 688 (CCPA 1972); *In re Pilkington*, 411 F.2d 1345, 1348, 162 USPQ 145, 147 (CCPA 1969); *Buono v. Yankee Maid Dress Corp.*, 77 F.2d 274, 279, 26 USPQ 57, 61 (2d. Cir. 1935). Note that Applicant has burden of proof in such cases as the above case law makes clear.

18. Regarding claim 33, Korman shows that the dielectric layer 44 is a single layer dielectric.

19. Regarding claim 34 (as understood), Korman shows that the dielectric layer has an upper surface. Korman does not disclose which process was used to make the dielectric layer. Moreover, a "product by process" claim is directed to the product *per se*, no matter how actually made. See In re Thorpe et al., 227 USPQ 964 (CAFC, 1985) and the related case law cited therein which make it clear that it is the final product *per se* which must be determined in a "product by process" claim, and not the patentability of the process, and that, as here, an old or obvious product produced by a new method is not patentable as a product, whether claimed in "product by process" claims or not. As stated in Thorpe, even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. *In re Brown*, 459 F.2d 531, 535, 173 USPQ 685, 688 (CCPA 1972); *In re Pilkington*, 411 F.2d 1345, 1348, 162 USPQ 145, 147 (CCPA 1969); *Buono v. Yankee Maid Dress Corp.*, 77 F.2d 274, 279, 26 USPQ 57, 61 (2d. Cir. 1935). Note that Applicant has burden of proof in such cases as the above case law makes clear.

20. Regarding claim 35, Korman shows that the plug does not exhibit a void.

21. Regarding claim 36, Korman shows that the second upper surface of the single layer plug is substantially planar with a second upper surface of the second dielectric layer 44.

22. Regarding claim 37, Korman shows that the portion of the dielectric layer including the second upper surface has a side wall portion SD2 that is substantially



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aligned with a first side wall portion of the second metal layer SD1, and wherein the portion of the plug including the second surface has a side wall SD3 portion that is substantially aligned with the second side wall portion of the second metal layer SD1.

### ***Conclusion***

23. Papers related to this application may be submitted directly to Art Unit 2826 by facsimile transmission. Papers should be faxed to Art Unit 2826 via the Art Unit 2826 Fax Center located in Crystal Plaza 4, room 3C23. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (15 November 1989). The Art Unit 2826 Fax Center number is **(703) 308-7722** or **-7724**. The Art Unit 2826 Fax Center is to be used only for papers related to Art Unit 2814 applications.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leonardo Andújar** at **(703) 308-0080** and between the hours of 9:00 AM to 5:00 PM (Eastern Standard Time) Monday through Friday or by e-mail via [Leonardo.Andujar@uspto.gov](mailto:Leonardo.Andujar@uspto.gov). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn, can be reached on (703) 308-6601.

25. Any inquiry of a general nature or relating to the status of this application should be directed to the **Group 2800 Receptionist** at **(703) 305-3900**.

26. The following list is the Examiner's field of search for the present Office Action:

Field of Search	Date
U.S. Class / Subclass (es): 257/758, 759 and 760	02/12/2002
Other Documentation:	

Application/Control Number: 09/775,370

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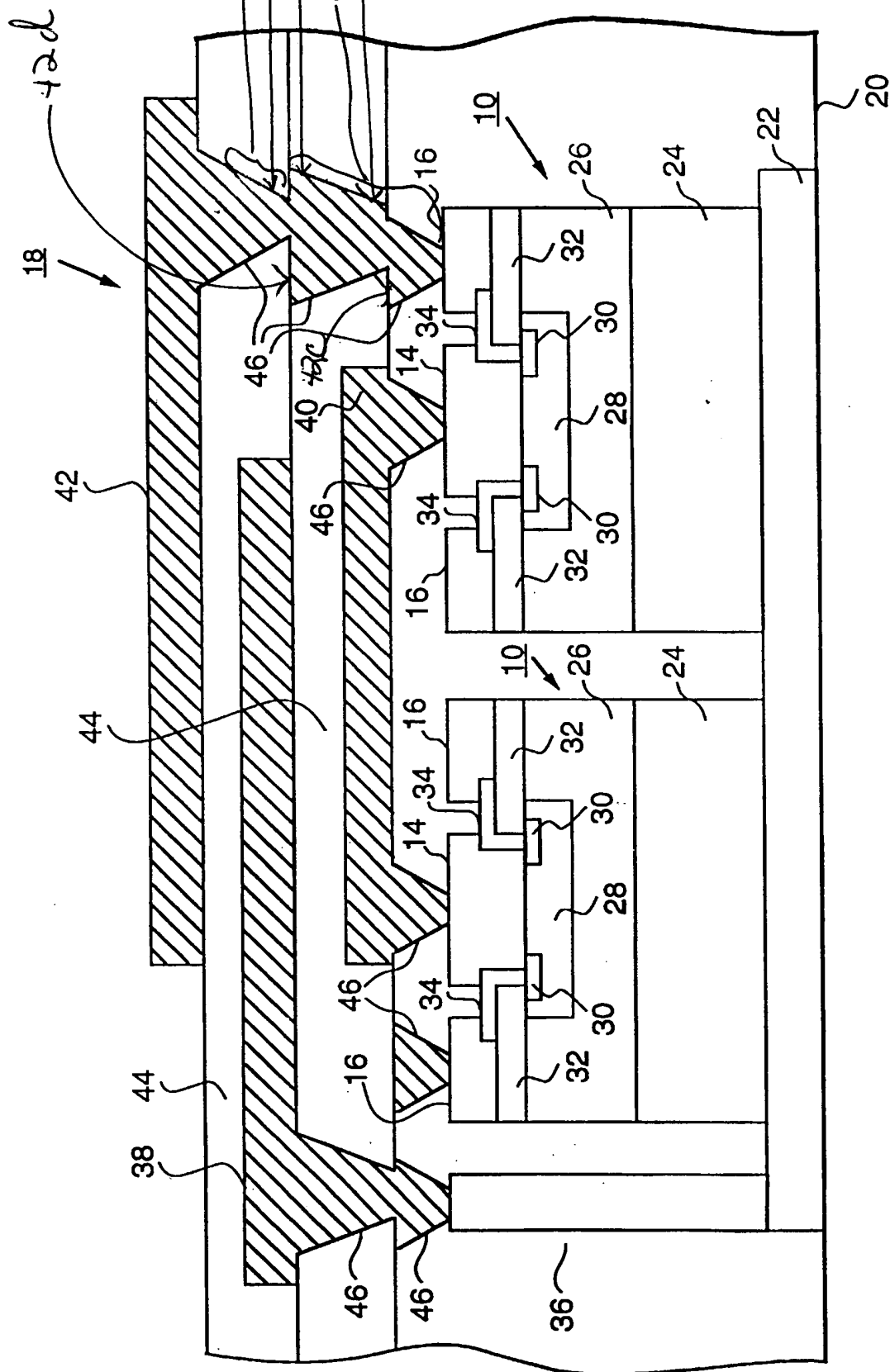
Electronic Database(s): East (USPAT, US PGPUB, JPO, EPO, Derwent, IBM TDB)	02/12/2002
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**Leonardo Andújar**

Patent Examiner Art Unit 2826

LA  
2/21/02

  
FETSUM ABRAHAM  
PRIMARY EXAMINER



**FIG. 3**

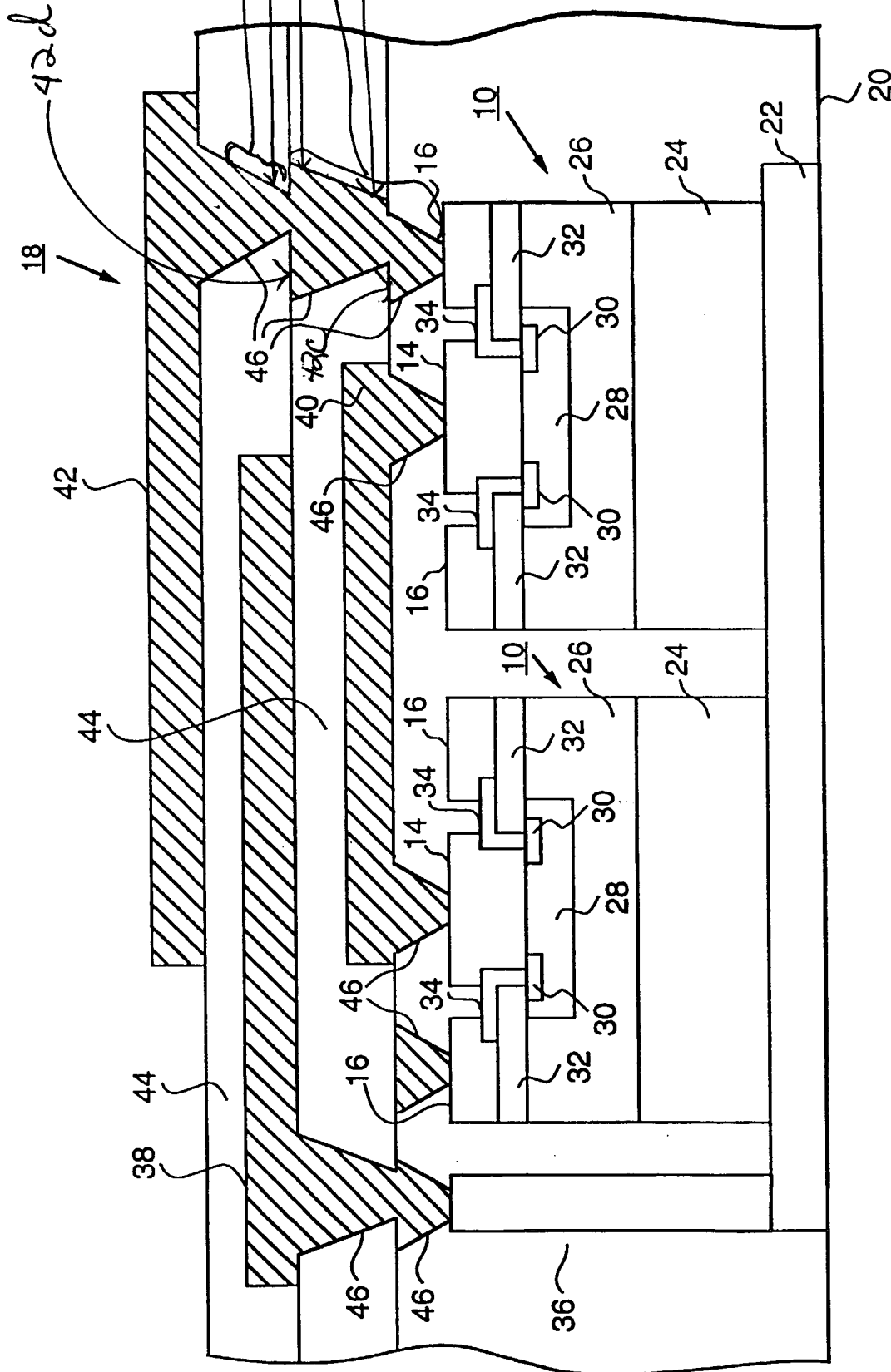


FIG. 3